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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

THE PEOPLE,

Plaintiff and Respondent,

v.

FREDERICK GEORGE HICKLER,

Defendant and Appellant.

E064478

(Super.Ct.No. FWV1402890)

OPINION

APPEAL from the Superior Court of San Bernardino County. Stanford E.

Reichert, Judge. Affirmed with directions.

Paul R. Kraus, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Frederick George Hickler was charged by information with first degree residential robbery (Pen. Code, § 211, count 1), assault with a firearm (Pen. Code, § 245, subd. (a)(2)), count 2), assault with a deadly weapon (Pen. Code, § 245, subd. (a)(1), count 3), and the unlawful driving or taking of a vehicle (Veh. Code,

§ 10851, subd. (a), count 4). The information also alleged that defendant had served seven prior prison terms (Pen. Code, § 667.5, subd. (b)) and had one prior strike conviction (Pen. Code, §§ 1170.12, subds. (a)-(d), 667, subds. (b)-(i)) and one prior serious felony conviction (Pen. Code, § 667, subd. (a)(1)). On April 17, 2015, the court added by interlineation a charge of assault by means likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(4), count 5), on motion by the People. Pursuant to a plea agreement, defendant pled no contest to count 5 and admitted the prior strike conviction and one prison prior. The parties stipulated that the police reports and felony complaint contained a factual basis for the plea. The court set a sentencing hearing for August 27, 2015. At the outset of that hearing, defendant indicated that he wished to withdraw his plea. On September 11, 2015, he filed a motion to withdraw his plea. On September 17, 2015, the court denied the motion and then sentenced defendant to a total term of seven years in state prison, in accordance with the plea agreement.

Defendant filed a timely notice of appeal. We direct the trial court to dismiss counts 1 through 4, the remaining six prior prison term allegations, and the prior serious felony conviction allegation. In all other respects, we affirm the judgment.

#### PROCEDURAL BACKGROUND

Defendant was charged with, and pled no contest to, assault by means likely to produce great bodily injury. (Pen. Code, § 245, subd. (a)(4).)

#### ANALYSIS

Defendant appealed and, upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979)

25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case and one potential arguable issue: whether the court erred in denying the motion to withdraw his plea. Counsel has also requested this court to undertake a review of the entire record.

We offered defendant an opportunity to file a personal supplemental brief, which he has not done. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

Although not raised by the parties, we note a few apparent clerical errors. Generally, a clerical error is one inadvertently made. (*People v. Schultz* (1965) 238 Cal.App.2d 804, 808.) Clerical error can be made by a clerk, by counsel, or by the court itself. (*Ibid.* [judge misspoke].) A court “has the inherent power to correct clerical errors in its records so as to make these records reflect the true facts. [Citations.]” (*In re Candelario* (1970) 3 Cal.3d 702, 705.)

In this case, the court neglected to dismiss counts 1 through 4, the six remaining prior prison term allegations (§ 667.5, subd. (b)), and the prior serious felony conviction (§ 667, subd. (a)(1)). The plea agreement stated that defendant would plead guilty to count 5, in exchange for a seven-year term in state prison. There was no mention of the dismissal of the remaining counts and allegations in the plea agreement. Defendant pled no contest to count 5 and admitted the prior strike conviction and one prior prison term allegation. The court did not dismiss the remaining counts or allegations. Nonetheless, the minute order states that the court ordered counts 1 through 4 and the other allegations dismissed, on motion of the People. Neither party mentioned the court’s failure to

dismiss the remaining counts or priors below or on appeal. There is no reference to counts 1 through 4 or the prior allegations in the abstract of judgment. Thus, the record indicates that the parties intended those counts and allegations to be dismissed. It is evident the court's failure to order the dismissals was inadvertent. Accordingly, we will direct the trial court to dismiss counts 1 through 4, the six remaining prior prison allegations, and the prior serious felony conviction allegation.

DISPOSITION

The trial court is directed to order the dismissal of counts 1 through 4, the six remaining prior prison allegations, and the prior serious felony conviction allegation. In all other respects, the judgment is affirmed.

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HOLLENHORST  
Acting P. J.

We concur:

MILLER  
J.

CODRINGTON  
J.